

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TERRY BROWN,)	
)	
Movant,)	
)	
v.)	No. 4:07CV00439 ERW
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

This matter is before the Court on movant's motion to reopen the time for filing an appeal.¹ The motion will be denied.

The Court dismissed this action on June 17, 2008, and the Court did not issue a certificate of appealability. Movant states that he did not receive notice of the dismissal until September 18, 2008, because he was in the Special Housing Unit with no access to his legal papers. Movant now moves the Court to reopen the time for filing an appeal based on the lack of notice of the dismissal.

The motion is groundless. Movant did not have a right to appeal from the dismissal of this action because the Court did not issue a certificate of appealability.

¹Movant originally filed his motion in the United States Court of Appeals for the Eighth Circuit. The Court of Appeals directed the motion to this Court for ruling.

28 U.S.C. § 2253(c). As a result, there was never any time limit for filing an appeal in the first place.

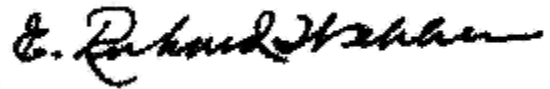
Accordingly,

IT IS HEREBY ORDERED that movant's motion to reopen the time for filing an appeal [#16] is **DENIED**.

IT IS FURTHER ORDERED that movant's motion to proceed in forma pauperis [#17] is **DENIED** as moot.

IT IS FURTHER ORDERED that Government's Motion to Dismiss Application for Writ [doc. #15] is **DENIED** as moot.

Dated this 11th Day of March, 2009.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE